

JOURNAL OF THE HOUSE.

Wednesday, November 7, 2007.

Met according to adjournment, at eleven o'clock A.M., with Mr. Petrolati of Ludlow in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Gracious God, we turn our attention and thoughts to You and to spiritual values as we prepare to take up and discuss the items on the day's legislative calendar. We believe that Your guidance is readily available to each of us and enables us to analyze correctly and fairly the day's pending legislation. Help us to be objective leaders and thinkers as we reason together in resolving even the most complex, controversial and emotional legislative matters. In serving the needs and expectations of constituents, we know that, often, simple solutions are not always the right ones in addressing current issues. May our hearts and minds be filled with peace, hope and happiness throughout this day.

Prayer.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Petrolati) the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Silent Prayers.

Mrs. Harkins of Needham being in the Chair,—

At the request of Representatives Petrolati of Ludlow and Kulik of Worthington, the members, guests and employees stood in a moment of silent prayer in memory of Army Specialist Kenneth J. Iwasinski, age 22 of Belchertown, who was killed on October 14, 2007 while serving in Iraq.

Army
Specialist
Kenneth J.
Iwasinski.

At the request of Representative Garry of Dracut, the members, guests and employees stood in a moment of silent prayer in memory of Army Specialist Christine M. Ndururi, age 21 of Dracut, who died on November 6, 2007, while serving in Kuwait.

Army
Specialist
Christine M.
Ndururi.

At the request of Representatives Keenan of Salem, Spiliotis of Danvers, Lantigua of Lawrence, Spiliotis of Peabody and Grant of Beverly, the members, guests and employees stood in a moment of silent prayer in memory of Matthew Indeglia of Lawrence, Mark Mansfield of Peabody and Phillip Robinson of Beverly, who were employees injured during a steam explosion at Salem Harbor Station and passed away last night.

Mark
Mansfield,
Phillip
Robinson
and
Matthew
Indeglia.

Statement of Representative Basile of Boston.

A statement of Mr. Basile of Boston was spread upon the records of the House, as follows:

Statement of
Representative
Basile of
Boston.

MADAM SPEAKER: I would like to call to the attention of the House the fact that I was not present in the House Chamber for a portion of today's sitting due to official business in another part of the State House. My missing of the quorum roll call today is due entirely to the reason stated.

Statement of Representative Fox of Boston.

A statement of Ms. Fox of Boston was spread upon the records of the House, as follows:

Statement of
Representative
Fox of
Boston.

MADAM SPEAKER: I would like to call to the attention of the House the fact that I was not present in the House Chamber for a portion of today's sitting due to my attendance at a meeting on health disparities, held outside of the State House. Any roll calls that I missed today is due entirely to the reason stated. If I had been present for the taking of roll call numbers 208 and 209, I would have voted in the affirmative, in both instances.

Statement of Representative Guyer of Dalton.

A statement of Mr. Guyer of Dalton was spread upon the records of the House, as follows:

Statement of
Representative
Guyer of
Dalton.

MADAM SPEAKER: I would like to call to the attention of the House the fact that I was not present in the House Chamber for a portion of today's sitting due to a long standing commitment as a guest lecturer at the University of Massachusetts at Amherst. Any roll calls that I missed today is due entirely to the reason stated.

Statement of Representative Naughton of Clinton.

A statement of Mr. Naughton of Clinton, was spread upon the records of the House, as follows:

Statement of
Representative
Naughton of
Clinton.

MADAM SPEAKER: I would like to call to the attention of the House the fact that I will not be unable to be present in the House Chamber for the remainder of today's sitting due to being called away from the State House on a family matter. Any roll that I may miss will be due entirely to the reason stated.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Leslie A.
Lewis.

Resolutions (filed by Ms. Fox of Boston and other members of the House) congratulating the Honorable Leslie A. Lewis on his service to the Masonic Family, Massachusetts correctional facilities and the constituents of Massachusetts; and

Mat
Thall.

Resolutions (filed by Ms. Fox of Boston) honoring Mat Thall for his lifetime of community service;

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Donato of Medford, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Papers from the Senate.

Mr. Golden of Lowell being in the Chair,—

The House Bill protecting and preserving home ownership (House, No. 4306, amended) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2382.

Homeownership.

Under suspension of the rules, on motion of Mr. Mariano of Quincy, the amendment was considered forthwith.

The House then non-concurred with the Senate in its amendment; and, on further motion of the same member, asked for a committee of conference on the disagreeing votes of the two branches. Representatives Mariano, Torrisi of North Andover and Gifford of Wareham then were appointed as the committee on the part of the House. Sent to the Senate to be joined.

Committee of
conference.

The Senate Bill relative to public safety at reproductive health care facilities (Senate, No. 1353, amended) came from the Senate with the endorsement that said branch had concurred with the House in its amendment with a further amendment inserting before the enacting clause the following emergency preamble:

Health
facilities,
buffer
zones.

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to increase forthwith public safety at reproductive health care facilities, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

Under suspension of Rule 35, on motion of Mr. Costello of Newburyport, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn, as changed) was considered forthwith.

After debate (Mr. Tobin of Quincy being in the Chair), the amendment was adopted, in concurrence.

The House Bill relative to property tax classification in cities and towns (House, No. 3119, changed) came from the Senate passed to be engrossed, in concurrence, with an amendment inserting before the enacting clause the following emergency preamble:

Property
taxes,
classification.

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to further regulate property tax classifications in cities and towns therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

Under suspension of Rule 35, on motion of Mr. Scaccia of Boston, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

The House Bill establishing a sick leave bank for Rhea Lindstet, an employee of the Department of Revenue (House, No. 4286) came from the Senate passed to be engrossed, in concurrence, with an amendment in lines 4 and 5, striking out the words "or the trial court of the commonwealth;"

Rhea
Lindstet,
sick leave.

Under suspension of Rule 35, on motion of Mr. Kocot of Northampton, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Bills

Homeownership.

Providing for homeownership opportunities in weak markets (Senate, No. 2325, amended by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document No. 2375) (on Senate No. 2162);

Veterans burial benefits.

Relative to veterans' burial benefits (Senate, No. 2372) (on Senate, No. 2134 and House, Nos. 3708 and 3730);

Buzzards Bay, protect.

Further protecting Buzzards Bay (Senate, No. 2374, amended in Section 14 by striking out lines 57 to 62, inclusive, and inserting in place thereof the following:

"Section 9. (a) An owner or operator of a tank vessel carrying 6,000 or more barrels of oil may provide 24-hour notice to the department, in a manner to be determined by the department, of the owner or operator's intent to enter or operate such vessel in Buzzards Bay.

(a½) If 24-hour notice is given, pursuant to subsection (a), and the tank vessel is unaccompanied by a tug boat escort, the commissioner shall dispatch a state pilot, if requested by the owner or operator, to the towing vessel.") (on Senate bill No. 517);

Michelle Souther, sick leave bank.
Veterans benefits.

Establishing a sick leave bank for Michelle Souther, an employee of the Registry of Motor Vehicles (Senate, No. 2384) (on a petition); and

To promote veterans benefits (Senate, No. 2397) (on Senate bill No. 2366, changed);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

Somerville, land easements.

A petition (accompanied by bill, Senate, No. 2392) of Patricia D. Jehlen, Denise Provost, Carl M. Sciortini, Jr., and Timothy J. Toomey, Jr. (with the approval of the mayor and city council) for legislation to authorize the Commissioner of Capital Asset Management and Maintenance to grant easements to the city of Somerville and to convey certain land to Fr Sturtevant Street, LLC, was referred, in concurrence, to the committee on Bonding, Capital Expenditures and State Assets.

Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Elderly, working and volunteering.

Petition (accompanied by bill) of Robert Correia and others that the Secretary of Elder Affairs be authorized to make certain grants for the support of programs for mature workers and volunteer work of elderly persons. To the committee on Elder Affairs.

Saturday elections, study.

Petition (accompanied by resolve) of Robert Correia and others for an investigation by a special commission (including members of the General Court) relative to the holding of elections on Saturdays. To the committee on Election Laws.

Petition (accompanied by bill) of Robert Correia and others for legislation to establish the mature worker business council within the Department of Workforce Development. To the committee on Labor and Workforce Development.

Mature worker business council.

Petition (accompanied by bill) of Steven J. D'Amico and others (by vote of the town) relative to an exchange of land for water supply purposes in the town of Swansea. To the committee on Municipalities and Regional Government.

Swansea, land exchange.

Under suspension of the rules, on motion of Mr. Straus of Mattapoisett, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

By Mr. Koutoujian of Waltham, for the committee on Public Health, on a petition, a Bill to protect the public health by banning the public distribution of free smoking or tobacco products for commercial purposes (House, No. 2272).

Free tobacco products, prohibit.

By the same member, for the same committee, on House, Nos. 2051 and 2147, a Bill protecting the public health (House, No. 4346).

Public health protection.

By the same member, for the same committee, on House, No. 2172, a Bill relative to healthy cosmetics (House, No. 4347).

Cosmetics.

By the same member, for the same committee, on House, No. 4111, a Bill to promote the safety of victims of violence (House, No. 4348).

Victims of violence.

Severally, referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Ms. Coakley-Rivera of Springfield, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill establishing a pilot program for adults with Asperger Syndrome and autism (House, No. 3838). Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Asperger syndrome.

By Mr. Smizik of Brookline, for the committee on Environment, Natural Resources and Agriculture, on a petition, a Bill relative to water management (House, No. 722, changed in line 1, by striking out the figures: "15" and inserting in place thereof the figures: "14", and in line 2, by striking out the figures: "2000" and inserting in place thereof the figures: "2006"). Read; and referred, under Rule 33, to the committee on Ways and Means.

Water management.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill relative to the Salem State College Assistance Corporation (Senate, No. 2242) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, the question being on ordering the bill to a third reading.

Salem State College Assistance Corporation.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill abolishing the North East Solid Waste Committee (Senate, No. 549, amended) ought to pass with an amendment by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4337.

Northeast Solid Waste Committee.

Congamond
Lakes,
Southwick.

By the same member, for the same committee, that the Bill allowing for the continued use of state-owned property for fishing, boating and tourism purposes on the Congamond Lakes in Southwick (Senate, No. 2248) ought to pass with an amendment by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4338 [Local Approval Received].

Engineers
and
surveyors.

By the same member, for the same committee, that the Bill relative to professional engineers and land surveyors (House, No. 278) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4339).

Probation
officers.

By the same member, for the same committee, that the Bill relative to assistant chief probation officers, first assistant chief probation officers and probation officers in charge (House, No. 1742) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4340).

Pensioners,
service after
retirement.

By the same member, for the same committee, that the Bill relative to capping payment of pensioners for services after retirement (House, No. 2713, changed) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4341).

Waltham,
land.

By the same member, for the same committee, that the Bill authorizing the sale of a certain parcel of land in the city of Waltham to said city (House, No. 4203) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4342).

Brookline,
reservoir.

By the same member, for the same committee, that the Bill authorizing the transfer of the former Fisher Hill Reservoir in the town of Brookline (House, No. 4205) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4343).

Construction
supervisors.

By the same member, for the same committee, that the Bill requiring continuing education of construction supervisors (House, No. 4230) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4344).

Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendments pending.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the following bills ought to pass:

Peter
Herbert,
sick leave
bank.

The Senate Bill establishing a sick leave bank for Peter Hebert, an employee of the Department of Mental Retardation (Senate, No. 2376); and

Medfield
State
Hospital,
land.

The House Bill providing for the disposition of certain property at Medfield State Hospital (House, No. 4214);

Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Natural
disasters.

Mr. DeLeo of Winthrop, for the committee on Ways and Means, on House, No. 4182, reported, in part, a Bill protecting the Commonwealth from natural disasters or emergencies that threaten the public health or safety of its citizens (House, No. 4345). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Emergency Measures.

The engrossed Bill relative to public safety at reproductive health care facilities (see Senate, No. 1353, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Buffer
zones.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 65 to 22. Sent to the Senate for concurrence.

The engrossed Bill establishing a sick leave bank for Dorothy Lafratta, an employee of the Department of Transitional Assistance (see House, No. 4249), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Dorothy
Lafratta,
sick leave.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 45 to 0. Sent to the Senate for concurrence.

Engrossed Bill.

The engrossed Bill designating a certain bridge in the town of Southampton as the Southampton Veterans Memorial Bridge (see Senate, No. 2066) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill
enacted.

Orders of the Day.

Senate bills

Authorizing the town of Lunenburg to exchange certain land (Senate, No. 1145);

Third
reading
bills.

Exempting Brian J. Donoghue from the maximum age requirements for appointment as a firefighter in the town of Norwood (Senate, No. 2257); and

Relative to the financing of a contract termination charge incurred by the town of Norwood (Senate, No. 2277);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed, in concurrence.

House bills

Relative to investments of dental service corporations (House, No. 1042) (its title having been changed by the committee on Bills in the Third Reading);

ri

Authorizing the Dennis Water District to convey certain land (House, No. 3741);

Authorizing the town of West Boylston to convey certain open space land (House, No. 4120);

Third
reading
bills.

Authorizing the town of Needham to construct and maintain a common sewer through land acquired for conservation purposes (House, No. 4121);

Relative to the town manager in the town of North Andover (House, No. 4138);

Authorizing the city of Fitchburg to convey a certain parcel of land in the city of Fitchburg for watershed purposes (House, No. 4216) (its title having been changed by the committee on Bills in the Third Reading); and

Relative to the Grafton and South Grafton water districts (House, No. 4241);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Second reading
bill engrossed.

The Senate Bill relative to the annual observance of Leopoldville Disaster Remembrance Day (Senate, No. 1873) was read a second time; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Walsh of Lynn, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed, in concurrence.

Senate bills

Authorizing the board of selectmen of Easton to lease a certain parcel of land (Senate, No. 2272); and

Authorizing the town of Tyngsborough to establish a recreation fields fund (Senate, No. 2291); and

House bills

Relative to the reauthorization of the Small Business Advisory council (House, No. 191);

Establishing a task force within the Department of Education to examine hygienic procedures pertaining to band instruments (House, No. 413);

Relative to election in the city of Everett (House, No. 4097);

Relative to town employees of West Tisbury (House, No. 4102); and

Relative to the resale of mattresses (House, No. 4299);

Severally were read a second time; and they were ordered to a third reading.

Recess.

Recess.

At seventeen minutes after eleven o'clock A.M., on motion of Mr. Flynn of Bridgewater (Mr. Petrolati of Ludlow being in the Chair), the House recessed until the hour of one o'clock P.M.; and at eight minutes after one o'clock the House was called to order with Mr. Petrolati in the Chair.

Engrossed Bill — Land Taking.

Marlborough,
easement.

The engrossed Bill relative to a certain parcel of land and an easement thereon in the city of Marlborough (see House, No. 4190) (which originated in the House), having been certified by the Clerk

to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 208 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill enacted
(land taking),
yea and nay
No. 208.

Order.

An Order (filed by Mr. Scaccia of Boston) relative to special procedures for consideration of the House Bill relative to green communities (House, No. 3965) (for order, see House, No. 4349), having been reported from the committee on Rules, under the provisions of House Rules 7B and 7C, was considered.

After debate on the question on adoption of the order, the same member moved to amend it in the first paragraph, after the figures "3965", by inserting the words "or any redraft thereof".

After remarks the amendment was adopted.

After debate on the question on adoption of the order, as amended, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 133 members voted in the affirmative and 22 in the negative.

[See Yea and Nay No. 209 in Supplement.]

Therefore the order (House, No. 4349, printed as amended) was adopted.

Green
communities,
procedures.

Order
adopted,
yea and nay
No. 209.

Motion to Discharge a Certain Matter in the Orders of the Day.

Mr. O'Flaherty of Chelsea moved that the House report of the committee on the Judiciary, ought NOT to pass, on the petition (accompanied by bill, House, No. 1511) of Bradley H. Jones, Jr., and others reinstating capital punishment in the Commonwealth, be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Pending the question on acceptance of the report, Mr. Jones of North Reading moved to amend it by substitution of the Bill reinstating capital punishment in the Commonwealth (House, No. 1511), which was read.

Pending the question on adoption of the amendment, Mr. Flynn of Bridgewater asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call (Mr. Tobin of Quincy being in the Chair) 151 members were recorded as being in attendance.

[See Yea and Nay No. 210 in Supplement.]

Therefore a quorum was present.

Capital
punishment.

Quorum.

Quorum,
yea and nay
No. 210.

Quorum. Mrs. Harkins of Needham being in the Chair,—
After debate on the question on adoption of the amendment, Ms. Fox of Boston asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Harkins), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,
yea and nay
No. 211. Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 155 members were recorded as being in attendance.

[See Yea and Nay No. 211 in Supplement.]

Amendment
rejected,
yea and nay
No. 212. Therefore a quorum was present.
After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call Mrs. Harkins of Needham being in the Chair) 46 members voted in the affirmative and 112 in the negative.

[See Yea and Nay No. 212 in Supplement.]

Therefore the amendment was rejected.
The report then was accepted.

Veterans
groups,
tax
exemptions. The House Bill to provide local property tax relief to nonprofit veteran organizations (House, No. 3045), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Bill passed to
be engrossed,
yea and nay
No. 213. After debate on the question on passing the bill to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Binienda of Worcester; and on the roll call (Mr. Golden of Lowell being in the Chair) 158 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 213 in Supplement.]

Therefore the bill (House, No. 3045) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

Next
sitting. On motion of Mr. DiMasi of Boston,—
Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Mr. Quinn of Dartmouth then moved that as a mark of respect to the memory of Leonard Gonsalves, a member of the House from Dartmouth in 1992, the House adjourn; and the motion prevailed.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty minutes before six o'clock P.M., on motion of Mr. Peterson of Grafton (Mr. Golden of Lowell being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.